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**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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In re	:	Chapter 11 Case No.
	:	
LEHMAN BROTHERS HOLDINGS INC., <u>et al.</u> ,	:	08-13555 (JMP)
	:	
Debtors.	:	(Jointly Administered)
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	:	
TURNBERRY CENTRA SUB, LLC;	:	Adversary Proc. No.
TURNBERRY CENTRA OFFICE SUB, LLC	:	
TURNBERRY RETAIL HOLDING, L.P.,	:	09-01062 (JMP)
JACQUELYN SOFFER, and JEFFREY SOFFER	:	
	:	
Plaintiffs	:	
	:	
v.	:	
	:	
LEHMAN BROTHERS HOLDINGS INC. and	:	
LEHMAN BROTHERS BANK, FSB	:	
	:	
Defendants	:	
-----	X	

**JOINDER OF OFFICIAL COMMITTEE OF UNSECURED CREDITORS IN  
DEBTORS' OBJECTION TO MOTION FOR RELIEF FROM AUTOMATIC STAY**

The Official Committee of Unsecured Creditors (the “Committee”) of Lehman Brothers Holdings Inc. and each of its affiliated debtors in possession (collectively, the “Debtors”) hereby joins in the Debtors’ objection [Docket No. 20790] (the “Objection”)<sup>1</sup> to the motion of Turnberry/Centra Sub, LLC, Turnberry/Centra Office Sub, LLC, Turnberry Retail Holding, L.P., Jacquelyn Soffer, and Jeffrey Soffer (collectively, the “Turnberry Plaintiffs”) for relief from the automatic stay [Docket No. 19591] (the “Motion”).

### **JOINDER**

1. The Committee joins in the Debtors’ objection to the relief sought in the Motion for each of the reasons set forth in the Objection. Relief from the automatic stay should be denied here because, as demonstrated in the Objection, the Turnberry Plaintiffs have failed to demonstrate that requisite cause therefor exists under the controlling Sonnax precedent. Similarly, the Turnberry Plaintiffs’ request for this Court’s abstention from adjudicating the Town Square Adversary Proceeding in favor of a Nevada court should also be denied because no state court action is, in fact, pending in Nevada.

2. The Turnberry Plaintiffs seek unfettered relief to “litigate all issues in their dispute” against “Lehman” in a Nevada state court, including (i) the adjudication and liquidation of any monetary claims they may have against “Lehman”; and (ii) the exercise of setoff rights where mutuality was lacking in clear violation of the Bankruptcy Code. See In re Lehman Bros., Inc., No. 08-01420 (JMP), 2011 WL 4553015, at \*4 (Bankr. S.D.N.Y. Oct. 4, 2011) (noting that to be eligible for setoff under section 553 of the Bankruptcy Code, there must be, among other things, mutuality between the parties, and noting that debts are mutual “only when they are ‘in the same right and between the same parties, standing in the same capacity’”) (quoting Lines v.

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<sup>1</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Objection.

Bank of Am. Nat'l Trust & Sav. Ass'n, 743 F. Supp. 176, 183 (S.D.N.Y. 1990)). Such relief is patently inappropriate.

3. While the Motion lacks any concrete details as to the exact scope or nature of the claims the Turnberry Plaintiffs contemplate bringing in Nevada, it appears that, in addition to the claims asserted in their Complaint, they plan to assert claims similar to those asserted in the Fontainebleau Adversary Proceedings, including those based upon the timing of the Debtors' alleged insolvency. It is plainly inappropriate to allow any court other than this Court to determine the latter, particularly when this issue is already pending before the Court in the Fontainebleau Adversary Proceedings. In addition, if the stay is lifted, the Nevada court and this Court would be adjudicating identical legal and factual issues, which would result in a waste of judicial time and resources and risk inconsistent rulings.

WHEREFORE, the Committee respectfully requests that the Court (i) deny the relief requested in the Motion, and (ii) grant such other relief as is just.

Dated: New York, New York  
October 14, 2011

**MILBANK, TWEED, HADLEY & M<sup>c</sup>CLOY LLP**

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